

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HYMAN GARCIA : CIVIL ACTION  
v. :  
CHRISTOPHER DIEHL, ET AL. : NO. 11-0625

M E M O R A N D U M

O'NEILL, J.

MARCH 3 , 2011

Plaintiff, a federal prisoner, has filed a *pro se* motion to proceed *in forma pauperis*, and a 42 U.S.C. § 1983 civil rights complaint in which he alleges in his statement of claim that he is the victim of an illegal search and seizure. As relief, plaintiff requests money damages for false imprisonment and malicious prosecution. The record in plaintiff's federal criminal case, USA v. Garcia, 09-cr-281-CMR (E.D. Pa.), shows that his status is pre-trial.

Plaintiff has informed the Court that he wishes to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915. Because it appears that plaintiff is unable to pre-pay the filing fee to commence this case, the Court will grant plaintiff's motion to proceed *in forma pauperis*. However, this civil action will be stayed pending the final resolution of his federal criminal case, including any available appellate and collateral proceedings. The Third Circuit Court of Appeals requires that we stay, rather than dismiss, plaintiff's civil rights claims seeking damages, pending the outcome of his criminal proceedings. See Williams v.

Hepting, 844 F.2d 138, 144-45 (3d Cir.), cert. denied, 488 U.S. 851 (1988).

An appropriate order follows.